

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FILED
U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2005 MAY -6 PM 3:29

ST. CLAIR INTELLECTUAL PROPERTY)	0 5 - 2 7 3
CONSULTANTS, INC , a Michigan corporation,)	Civil Action No _____
)	
Plaintiff,)	
)	
v)	
)	COMPLAINT
MIRAGE SYSTEMS, INC , a California)	
corporation, GEORGE J MOUSSALLY, an)	JURY TRIAL DEMANDED
individual, and KENNETH L. FORD, an)	
individual,)	
)	
Defendants)	
_____)	

Plaintiff St Clair Intellectual Property Consultants, Inc , ("St. Clair") for its complaint against Defendants Mirage Systems, Inc , George J Moussally, and Kenneth L. Ford (collectively referred to as "the Defendants"), states and alleges as follows:

NATURE OF THE ACTION

1 This is action for judicial declaration of ownership rights and to quiet title to certain intellectual property of St Clair and for tort damages against the Defendants for undermining St Clair's ownership rights and interfering with its ability to license its patents: United States Patent Nos 5,138,459 (the "'459 patent"), 5,576,757 (the "'757 patent"), 6,094,219 (the "'219 patent"), 6,233,010 (the "'010 patent"), 6,323,899 (the "'899 patent"), and 6,496,222 (the "'222 patent"), together with all divisions, continuations, applications, foreign patents and applications, and all reissues and re-examinations (collectively, the "patents-in-suit") The invention claimed in the patents-in-suit together with all right, title and interest to the invention and patents-in-suit is the "St Clair Intellectual Property "

THE PARTIES

2 Plaintiff St Clair is a Michigan corporation having its principal place of business
at 16845 Kercheval Avenue, Suite Number Two, Grosse Pointe, Michigan 48230-1551

3 On information and belief, Defendant Mirage Systems, Inc (“Mirage”), is, and at
all relevant times has been, a corporation organized and incorporated under the laws of the State
of California. Mirage’s principal place of business is at 1031 E Duane Street, Suite F,
Sunnyvale, California 94085

4 On information and belief, Defendant George J Moussally, is, and at all relevant
times has been, an officer of Mirage, currently residing at 33185 Lark Way, Fremont, California
94555.

5 On information and belief, Defendant Kenneth L Ford, is, and at all relevant
times has been, an officer of Mirage, currently residing at 1040 Vista Oak, San Jose, California
95132.

OTHER ENTITY

6 On information and belief, Mount and Stoelker, P.C. has its place of business at
River Power Tower, Suite 1700, 333 West San Carlos, San Jose, California 95110-2740. Mount
and Stoelker, P.C. is an unnamed co-conspirator as alleged in this complaint.

JURISDICTION

7 An actual controversy has arisen and now exists between St Clair and the
Defendants concerning their respective rights to the St Clair Intellectual Property.

8 This action arises under the federal patent statute, 35 U.S.C. § 261, the Federal
Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and under California and Delaware

State law between diverse parties where the amount in dispute exceeds \$75,000. This Court therefore has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1332, 1338(a) and 2201.

9. Personal jurisdiction over Defendants comports with the United States Constitution and 10 Del. C. § 3104 because Defendants have done business in Delaware and have caused and continue to cause tortious injury to St. Clair in the State of Delaware as alleged in this complaint. In addition or in the alternative, the Defendants have submitted themselves to the jurisdiction of the U.S. District Court for the District of Delaware through several declarations filed in *St. Clair v. Canon Inc., et al.*, Civil Action No. 03-241 (JJF), and by voluntarily appearing in court, prepared to testify in the *St. Clair v. Canon Inc., et al.* trial.

VENUE

10. Venue is proper in this district under 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to St. Clair's allegations occurred in the State of Delaware.

FACTUAL BACKGROUND

11. St. Clair owns the St. Clair Intellectual Property, including United States Patent Nos. 5,138,459 (the "'459 patent"), 5,576,757 (the "'757 patent"), 6,094,219 (the "'219 patent"), 6,233,010 (the "'010 patent"), 6,323,899 (the "'899 patent"), and 6,496,222 (the "'222 patent").

12. The St. Clair Intellectual Property revolutionized the digital camera industry, enabling the rapid growth and commercial success of digital cameras.

13. St. Clair has licensed its patents to many of the largest manufacturers of digital cameras in the world including: (1) Sony Corporation; (2) Nikon Corporation; (3) Minolta Co., Ltd.; (4) Olympus Optical Co., Ltd.; (5) Seiko Epson Corporation; (6) Casio Computer Co.; (7) Kyocera Corporation; (8) Pentax Corporation; and (9) Samsung Techwin Co., Ltd.

14 The named inventors on the patents-in-suit are Marc K. Roberts, Matthew K. Chikosky and Jerry A. Speasl ("the Inventors")

15 The Inventors conceived their digital camera invention no later than the holiday season in 1989. Between the conception of their digital camera invention in 1989 and the filing of their original patent application in the United States Patent and Trademark Office on November 20, 1990, the Inventors worked with their patent attorney, Paul W. Fish, to refine their patent application.

16 At the time the Inventors conceived their invention, all three of them were Mirage employees. On information and belief, Mirage was at the time a defense contractor that provided products and services to the military and intelligence communities related to radar technology.

17 During the time period in which the Inventors' digital camera invention was conceived and reduced to practice, Mirage was never involved in digital camera technology of any kind.

18 On June 29, 1987, Mirage hired Jerry A. Speasl as Director of Business Development. Mr. Speasl left Mirage's employ on August 9, 1991.

19 On March 27, 1989, Mirage hired Marc K. Roberts as Director of Business Development, C3I Systems. Mr. Roberts left Mirage's employ on January 31, 1992.

20 On August 28, 1989, Mirage hired Matthew A. Chikosky as Manager of Special Projects Engineering. Mr. Chikosky left Mirage's employ around April 1996.

21 Both prior to and after the filing their patent application for their digital camera invention, the Inventors disclosed their digital camera invention to officers of Mirage.

22 By way of example only, at a lunch meeting on or about December 1, 1992, Mr. Roberts met with Fred J. Heinzmann, Mirage's Co-Founder, Vice President of Engineering and Senior Technical Advisor, and described his digital camera invention in detail.

23 At no time during the lunch meeting or any point thereafter did Mr. Heinzmann state that he believed the Inventors' digital camera invention would be the property of Mirage.

24 The Inventors each had one or more conversations with high-ranking executives within Mirage about their digital camera invention during the period prior to the '459 patent's issuance on August 11, 1992 and shortly thereafter. At no point did any of these executives, including George J. Moussally, Fred J. Heinzmann, Daniel F. Wiener, or Phillip A. Fialer, assert or indicate that they believed that the digital camera invention was the property of Mirage.

25 The Inventors worked on their invention on their own time during nights and weekends. During the time between their conception of their digital camera invention and the filing of their original patent application, the Inventors met frequently in Mr. Speas's basement, hotels, restaurants, and other places separate from Mirage's offices to discuss their digital camera invention.

26 The Inventors did not use any Mirage resources in the conception of their invention. In addition, the Inventors were not aware of any business or actual or demonstrably anticipated research or development of Mirage to which their invention related, and based on information available to them, their invention was not related to the business or actual or demonstrably anticipated research or development of Mirage.

27 On November 20, 1990, the Inventors filed their original patent application with the United States Patent and Trademark Office that ultimately issued on August 11, 1992 as the '459 Patent. A true and correct copy of the '459 patent is attached as Exhibit A.

28 On July 29, 1993, the Inventors filed a related patent application with United States Patent and Trademark Office that ultimately became the '757 patent, issued on November 19, 1996. A true and correct copy of the '757 patent is attached as Exhibit B.

29 On May 22, 1996, St. Clair filed a related patent application with the United States Patent and Trademark Office that ultimately became the '219 patent, issued on July 25, 2000. A true and correct copy of the '219 patent is attached as Exhibit C.

30 On February 19, 1999, St. Clair filed a related patent application with the United States Patent and Trademark Office that ultimately became the '010 patent, issued on May 15, 2001. A true and correct copy of the '010 patent is attached as Exhibit D.

31 On April 3, 2000, St. Clair filed a related patent application with the United States Patent and Trademark Office that ultimately became the '899 patent, issued on November 27, 2001. A true and correct copy of the '899 patent is attached as Exhibit E.

32 On November 27, 2000, St. Clair filed a related patent application with the United States Patent and Trademark Office that ultimately became the '222 patent, issued on December 17, 2002. A true and correct copy of the '222 patent is attached as Exhibit F.

33 On January 9, 1992, United States Patent and Trademark Office recorded the Inventors' assignment of the entire right, title and interest in their digital camera invention, including the patents-in-suit, to Personal Computer Cameras, Inc. ("PCC"). A true and correct copy of the recorded assignment is attached as Exhibit G.

34 The Inventors assigned the entire ownership rights to PCC. The assignment included not only the '459 patent, but all patents arising from the same application.

35 On the face of the '459 patent, PCC is listed as the assignee.

36 On November 1, 1995, St. Clair purchased the '459 patent and all related patents and applications together with all of the St. Clair Intellectual Property from PCC with the execution of a Patent Purchase Agreement between the two companies. A true and correct copy of the Patent Purchase Agreement is attached as Exhibit H.

37 Under the terms of the Patent Purchase Agreement, St. Clair agreed to pay PCC \$60,000 up front as well as 50% of net licensing revenue related to the enforcement and licensing of the patent rights. PCC assigned "all right, title and interest in and to the [St. Clair Intellectual Property]" to St. Clair. The assignment assigned not only the '459 patent, but the invention disclosed therein and all related patents arising from the same application.

38 Under the terms of the Patent Purchase Agreement, PCC warranted that it was "the owner of all right, title and interest in and to the [St. Clair Intellectual Property]"

39 Prior to purchasing the St. Clair Intellectual Property from PCC, St. Clair diligently investigated PCC's claim of title and took title with no knowledge of any contrary claim of ownership.

40 On January 16, 1996, St. Clair duly recorded PCC's assignment of the '459 patent and all related patents to St. Clair with the United States Patent and Trademark Office. A true and correct copy of the recorded assignment is attached as Exhibit I.

41 On the face of the '757 patent, the '219 patent, the '010 patent, the '899 patent, and the '222 patent, St. Clair is listed as the assignee.

42 St. Clair has enforced its patent rights by filing the following patent infringement lawsuits in U.S. District Court for the District of Delaware: (1) *St. Clair Intellectual Property Consultants, Inc. v. Sony Corp., et al.*, Civil Case No. 01-557 (JJF), filed on August 14, 2001; (2) *St. Clair Intellectual Property Consultants, Inc. v. Canon Inc., et al.*, Civil Case No. 03-241

(JJF), filed on February 28, 2003; and (3) *St. Clair Intellectual Property Consultants, Inc. v. Samsung Electronics, et al.*, Civil Case No. 04-1436 (JJF), filed on November 9, 2004.

43 In enforcing St. Clair's patent rights, St. Clair has received the following damage awards: (1) On February 23, 2003, a unanimous jury in Civil Action No. 01-557 (JJF) in the U.S. District Court for the District of Delaware awarded damages to St. Clair in the amount of \$25,000,000.00 for Sony Corporation's infringement of several of the patents-in-suit; (2) On October 8, 2004, a unanimous jury in Civil Action No. 03-241 (JJF) in the U.S. District Court for the District of Delaware awarded damages to St. Clair in the amount of \$34,716,482.49 for Canon Inc.'s infringement of several of the patents-in-suit; and (3) On October 25, 2004, a majority jury verdict in Civil Action No. 03-241 (JJF) in the U.S. District Court for the District of Delaware awarded damages to St. Clair in the amount of \$3,003,465.00 for Fuji Photo Film Co., Ltd.'s infringement of several of the patents-in-suit.

44 On April 12, 2005, St. Clair had substantially completed negotiations related to license agreements with several companies including, but not limited to, defendants in pending Civil Action No. 04-1436 (JJF) in U.S. District Court for the District of Delaware.

45 To allow settlement discussions to continue, St. Clair agreed to extensions of time for several defendants to answer St. Clair's patent infringement complaint.

46 Many draft agreements had been exchanged between St. Clair and prospective licensees including, but not limited to, defendants in pending Civil Action No. 01-1436 (JJF) in the U.S. District Court for the District of Delaware. License agreements were on the verge of being signed.

47 The license agreements would have led to payments of several tens of millions of dollars to St. Clair.

48 In addition, St Clair was in active negotiations with numerous other digital camera manufacturers

49 A license agreement with any manufacturer of digital cameras would represent a significant economic benefit for St. Clair

50 On April 12, 2005, Defendant Mirage filed a Complaint in California State court alleging ownership of the patents-in-suit.

51 One or more of the defendants in Civil Action No 04-1436 (JJF) in the U S District Court for the District of Delaware and other potential licensees have withdrawn or substantially limited their settlement offers specifically because of the allegations in Mirage's Complaint and/or other non-privileged communications by Mirage and its agents regarding ownership of the St Clair Intellectual Property

COUNT I
DECLARATORY JUDGMENT OF OWNERSHIP
PURSUANT TO 28 U.S.C. § 2201

52 St Clair restates and realleges each of the allegations set forth in paragraphs 1 through 51 as if fully set forth herein

53 An actual controversy exists between Mirage and St. Clair over ownership of the St. Clair Intellectual Property

54 On April 30, 2004, Mirage entered into an agreement entitled "Consulting Agreement and Covenant Not to Sue" ("Consulting Agreement") with Canon U S A , Inc , one of the defendants in Civil Action No. 03-241 (JJF) in the U S District Court for the District of Delaware

55 The agreement was signed by Defendant Kenneth L. Ford, the Vice-President of Operations for Mirage, and Seymour Liebman, the Executive Vice-President of Canon U.S.A., Inc. ("Canon")

56 The agreement called for Canon to pay Mirage \$75,000 for purported rights to practice the technology claimed in the '459, '219, '010, and '899 patents

57 Canon agreed to pay Mirage for its travel expenses, office expenses, and reimbursement for lost time incurred in cooperating with Canon to prove that Mirage owns the patents-in-suit. The agreement called for Canon to pay Mirage for lost time for any Mirage employee at the rate of \$300 per hour.

58 On July 22, 2004, Canon filed its Motion to Dismiss for Lack of Standing and Subject Matter Jurisdiction in Civil Action No. 03-241 (JJF) in the U.S. District Court for the District of Delaware. The motion to dismiss alleged that St. Clair did not own the asserted patents and further alleged that Mirage was the true owner of the asserted patents.

59 Defendants George J. Moussally and Kenneth L. Ford, along with former and current Mirage employees, Fred J. Heinzmann, Phillip A. Fialer and Daniel F. Wiener, all submitted one or more declarations in support of Canon's motion to dismiss.

60 On September 30, 2004, during the middle of trial in Civil Action No. 03-241 (JJF) in the U.S. District Court for the District of Delaware, minutes before Defendant George J. Moussally was going to take the stand to testify, Canon produced for the first time a copy of the Consulting Agreement by and between Mirage and Canon to St. Clair.

61 Defendant Kenneth L. Ford was also in the courtroom at the time. If called by Canon, Mr. Ford was prepared to testify.

62 Under the Consulting Agreement with Canon, Mirage was paid for Defendants George J. Moussally's and Kenneth L. Ford's time spent in Delaware.

63 After St. Clair informed the Court of the production of the Consulting Agreement, the Court severed Canon's ownership defense from trial. The Court then initiated proceedings with a Special Master to determine whether Canon timely produced the Consulting Agreement to St. Clair and, if not, what sanctions should be recommended.

64 The Defendants have been and continue to be participants in the proceedings before the Special Master in the District of Delaware.

65 St. Clair purchased the '459 patent and all related patents together with the St. Clair Intellectual Property on November 1, 1995 from PCC for \$60,000 plus one half of future net licensing revenue.

66 To date, St. Clair has paid PCC millions of dollars as a result of licensing the patents-in-suit to manufacturers of digital cameras. St. Clair's payments to PCC represent valuable consideration.

67 St. Clair duly recorded its assignment with the United States Patent and Trademark Office on January 16, 1996.

68 St. Clair purchased the '459 patent and related patents in 1995 from PCC without knowledge of any claim of ownership by Mirage or any other defendant. Under the terms of the Patent Purchase Agreement, PCC warranted that it was "the owner of all right, title and interest in and to the [St. Clair Intellectual Property]."

69 St. Clair conducted a duly diligent inquiry to determine if there were any contrary claims against the title of the '459 patent together with the St. Clair Intellectual Property owned by PCC. Despite a duly diligent inquiry, St. Clair did not uncover any claim against the title of

the '459 patent, and purchased the St. Clair Intellectual Property without notice of any claim to title by Mirage, any other defendant, or any other person or entity.

70 St. Clair is entitled to a declaratory judgment that it owns the patents-in-suit and the St. Clair Intellectual Property.

COUNT II
QUIET TITLE AND DECLARATION OF OWNERSHIP
PURSUANT TO 35 U.S.C. § 261

71 St. Clair restates and realleges each of the allegations set forth in paragraphs 1 through 70 as if fully set forth herein.

72 St. Clair has legal title to the patents-in-suit pursuant to 35 U.S.C. § 261. Section 261 requires an alleged assignee such as Mirage to record its title with the United States Patent and Trademark Office:

An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent and Trademark Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

73 Mirage has never recorded an assignment, grant or conveyance of the patents-in-suit from the Inventors with the United States Patent and Trademark Office.

74 On January 9, 1992, United States Patent and Trademark Office recorded the Inventors' assignment of their interests in the their invention and all patents to PCC.

75 St. Clair purchased the '459 patent and all related patents together with the St. Clair Intellectual Property on November 1, 1995 from PCC for \$60,000 plus one half of future net licensing revenue.

76 St Clair duly recorded its assignment with the United States Patent and Trademark Office on January 16, 1996

77 To date, St Clair has paid PCC millions of dollars as a result of licensing the patents-in-suit to manufacturers of digital cameras. St Clair's payments to PCC represent valuable consideration.

78 St Clair purchased the '459 patent and related patents in 1995 from PCC without knowledge of any claim of ownership by Mirage or any other defendant. Under the terms of the Patent Purchase Agreement, PCC warranted that it was "the owner of all right, title and interest in and to the [St Clair Intellectual Property]"

79 St Clair conducted a duly diligent inquiry to determine if there were any contrary claims against the title of the '459 patent together with the St Clair Intellectual Property owned by PCC. Despite a duly diligent inquiry, St Clair did not uncover any claim against the title of the '459 patent, and purchased the St Clair Intellectual Property without notice of any claim to title by Mirage, any other defendant, or any other person or entity.

80 St Clair is the only owner of the patents-in-suit and the St Clair Intellectual Property. Mirage has no rights of ownership.

COUNT III
QUIET TITLE AND DECLARATION OF OWNERSHIP
PURSUANT CAL. LABOR CODE § 2870

81 St Clair restates and realleges each of the allegations set forth in paragraphs 1 through 80 as if fully set forth herein.

82 Each of the employment agreements entered into by the Inventors was governed by Section 2870 of the California Labor Code, which states:

(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an

invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information except for those inventions that either:

(1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer; or

(2) Result from any work performed by the employee for the employer

(b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a), the provision is against the public policy of this state and is unenforceable

83. The invention conceived by Messrs Speasl, Chikosky, and Roberts and claimed in the patents-in-suit was developed entirely on the Inventors' own time without the equipment, supplies, facilities, or trade secret information of Mirage

84. The invention did not relate at either the time of conception or reduction to practice to Mirage's business, or actual or demonstrably anticipated research or development. The invention also did not result from work performed by the Inventors for Mirage

85. The protections of California Labor Code § 2870 cannot be waived by the employee. Mirage cannot claim ownership over the patents-in-suit because they fall within the safe harbor created by California Labor Code § 2870

86. The Inventors owned the patents covering their digital camera invention, duly and legally assigned the '459 patent all related patents and applications to PCC. PCC duly and legally assigned the '459 patent and all related patents and applications to St. Clair together with all of the St. Clair Intellectual Property

87. St. Clair has legal, equitable, and all other title to the patents-in-suit together with all of the St. Clair Intellectual Property

COUNT IV
QUIET TITLE AND DECLARATION OF OWNERSHIP
PURSUANT TO CALIFORNIA STATUTE OF LIMITATIONS

88 St Clair restates and realleges each of the allegations set forth in paragraphs 1 through 87 as if fully set forth herein

89 Under California Code of Civil Procedure § 337(1), Mirage must assert any claim of ownership based the Inventors' employment agreements with Mirage within four years of the alleged breach of contract

90 Issuance of a United States patent and recordation of title in the United States Patent and Trademark Office constitute notice to the world of the patent's existence and ownership

91 Mirage had notice of the first of the patents-in-suit when the '459 patent issued on August 11, 1992

92 The Inventors also disclosed their digital camera invention to various officers within Mirage including Fred J Heinzmann, George J Moussally, Phillip A Fialer, and Daniel F Wiener, from at least before the '459 patent issued on August 11, 1992 and/or soon thereafter

93 Mirage or its officials never took any of the steps to claim ownership or sought a judicial declaration of ownership within the four-year time period

94 Any claim by Mirage to ownership of the patents-in-suit is time-barred under California law.

COUNT V
QUIET TITLE AND DECLARATION OF OWNERSHIP
PURSUANT TO LACHES AND ESTOPPEL

95 St Clair restates and realleges each of the allegations set forth in paragraphs 1 through 94 as if fully set forth herein

96 Issuance of a United States patent and recordation of title in the United States Patent and Trademark Office constitute notice to the world of the patent's existence and ownership

97 Mirage had notice of the first of the patents-in-suit when the '459 patent issued on August 11, 1992

98 The Inventors also disclosed their digital camera invention to various officers within Mirage including Fred J Heinzmann, George J Moussally, Phillip A. Fialer, and Daniel F Wiener, either before the '459 patent issued on August 11, 1992 and/or soon thereafter

99 Despite being aware of the Inventors' digital camera invention by at least 1992, neither Mirage nor any other defendant asserted any right of ownership over the Inventors' intellectual property rights

100 Mirage and its officers by their words and conduct demonstrated an intent not to claim any ownership in the inventions of Mirage employees

101 The Inventors, their company PCC, and St Clair relied upon the words, actions, and silence of Mirage and the other defendants to invest in, develop, and license the technology claimed in the patents-in-suit

102 Despite its awareness of the patents-in-suit, Mirage and the other defendants remained silent for an unreasonable period and misled the Inventors, PCC, and St Clair into believing that Mirage either had no ownership interest or had waived or abandoned any such interest

103 PCC's and St Clair's reliance on Mirage's and the other defendants' words, actions, and silence is and was reasonable

104. Therefore, it would be inequitable for Mirage or any other defendant to be permitted to assert any ownership interest in patents-in-suit or any of the St Clair Intellectual Property

COUNT VI
TORTIOUS INTERFERENCE WITH PROSPECTIVE
BUSINESS RELATIONS

105 St Clair restates and realleges each of the allegations set forth in paragraphs 1 through 104 as if fully set forth herein

106 St Clair has licensed the patents-in-suit to at least nine major manufacturers of digital cameras

107 In April 2005, St Clair had substantially completed negotiations related to additional license agreements including, but not limited to, license agreements with several defendants in the pending Civil Action No 04-1436 (JJF) in U S District Court for the District of Delaware

108 To allow settlement discussions to continue, St Clair agreed to extensions of time for several defendants to answer St Clair's patent infringement complaint

109 Many draft agreements had been exchanged between St Clair and potential licensees including, but not limited to, the defendants in the pending Civil Action No 04-1436 (JJF) in U S District Court for the District of Delaware The licenses were on the verge of being signed

110 The license agreements would have led to a payments of several tens of millions of dollars to St Clair

111 In addition, St Clair was in active negotiations with numerous other digital camera manufacturers

112. A license agreement with any manufacturer of digital cameras would represent a significant economic benefit for St. Clair.

113. The Defendants had knowledge of St. Clair's past licenses and ongoing licensing efforts of the patents-in-suit.

114. On April 12, 2005, Defendant Mirage filed a Complaint in California State court alleging ownership of the patents-in-suit.

115. On information and belief, Defendants George J. Moussally and Kenneth L. Ford conspired with Defendant Mirage to intentionally and maliciously interfere with St. Clair's business relations with potential licensees by disseminating the contents of Mirage's Complaint and by making other unfounded claims of ownership of the patents-in-suit in verbal and written communications.

116. At least one of St. Clair's potential licensees learned of the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership through Mirage's agent, Mount and Stoelker, P.C.

117. But for the dissemination of the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership, at least one or more of the defendants in Civil Action No. 04-1436 in the U.S. District Court for the District of Delaware would have settled and paid a license fee.

118. As a result, several defendants in Civil Action No. 04-1436 (JJF) in the U.S. District Court for the District of Delaware have now alleged that St. Clair does not own the patents-in-suit.

119. The delay and failure in licensing that has resulted from the Defendants' dissemination of the allegations in Mirage's Complaint and/or other allegations of Mirage's

claim of ownership has caused St. Clair substantial damages in an amount to be proven at trial. Damages include at least St. Clair's expenses and burden of continuing litigation of cases against defendants who would have settled but for the Defendants' tortious conduct together with lost licensing revenue in the tens of millions of dollars.

COUNT VII
SLANDER OF TITLE

120 St. Clair restates and realleges each of the allegations set forth in paragraphs 1 through 119 as if fully set forth herein.

121 The Defendants had knowledge of St. Clair's past licenses and ongoing licensing efforts of the patents-in-suit.

122 Despite the fact that St. Clair is the record title holder of the patents-in-suit, Defendants conspired to intentionally and maliciously interfere with St. Clair's business relations with potential licensees by disseminating the contents of Mirage's Complaint and by making other unfounded claims of ownership of the patents-in-suit in verbal and written communications to disparage St. Clair's ownership of the patents-in-suit.

123 By publishing the false statements to third parties, the publications were outside the course of judicial proceedings and not privileged. The Defendants' false statements have been relied on by third parties to the detriment of St. Clair.

124 But for the disseminations of the allegations in Mirage's complaint and/or other allegations of Mirage's claim of ownership, one or more of the defendants in Civil Action No. 04-1436 in the U.S. District Court for the District of Delaware would have settled and paid a license fee.

125 The Defendants' dissemination of the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership has undermined the marketability of St. Clair's title to the patents-in-suit

126 Because of Defendants' dissemination of the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership, St. Clair has been unable to license the technology claimed in the patents-in-suit and this delay and failure in licensing has caused St. Clair substantial damages in an amount to be proven at trial. Damages include at least St. Clair's expenses and burden of continuing litigation of cases against defendants who would have settled but for the Defendants' tortious conduct together with lost licensing revenue in the tens of millions of dollars

COUNT VIII
UNFAIR COMPETITION AND DECEPTIVE TRADE PRACTICES

127 St. Clair restates and realleges each of the allegations set forth in paragraphs 1 through 126 as if fully set forth herein

128 The Defendants had knowledge of St. Clair's past licenses and ongoing licensing efforts of the patents-in-suit

129 Despite the fact that St. Clair is the record title holder of the patents-in-suit, Defendants conspired to intentionally and maliciously interfere with St. Clair's business relations with potential licensees by disseminating the allegations of Mirage's Complaint and by making other unfounded claims of ownership of the patents-in-suit in verbal and/or written communications to disparage St. Clair's ownership of the patents-in-suit

130 The Defendants' false claims of ownership of the patents-in-suit create confusion and are misleading to St. Clair's potential licensees

131 But for the dissemination of allegations in Mirage's complaint and/or other allegations of Mirage's claim of ownership, one or more of the defendants in Civil Action No 04-1436 in the U S District Court for the District of Delaware would have settled and paid a license fee

132 The Defendants' conduct has undermined the marketability of St Clair's title to the patents-in-suit

133 The Defendants, acting individually and in conspiracy with one another, have engaged in unfair competition and deceptive trade practices under 6 Del C § 2532, *et seq*

134 Because of the Defendants' dissemination of the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership, St Clair has been unable to license the technology claimed in the patents-in-suit and this delay and failure in licensing has caused St Clair substantial damages in an amount to be proven at trial Damages include at least St Clair's expenses and burden of continuing litigation of cases against defendants who would have settled but for the Defendants' tortious conduct together with lost licensing revenue in the tens of millions of dollars

COUNT IX
CONSPIRACY

135 St Clair restates and realleges each of the allegations set forth in paragraphs 1 through 134 as if fully set forth herein

136 The Defendants had knowledge of St Clair's past licenses and ongoing licensing efforts of the patents-in-suit

137 Defendants acted in conspiracy with one another and Mirage's agent, Mount and Stoelker, P.C , to intentionally, maliciously, and unlawfully interfere with St Clair's business relations with potential licensees by disseminating the contents of Mirage's Complaint and by

making unfounded claims of ownership of the patents-in-suit in verbal and/or written communications to disparage St. Clair's ownership of the patents-in-suit

138 Each defendant agreed with the other defendants and Mirage's agent, Mount and Stoelker, P C , to disseminate the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership to St. Clair's potential licensees

139 At least one of St. Clair's potential licensees learned of the allegations in Mirage's Complaint and/or other allegations of Mirage's claim of ownership through Mirage's agent, Mount and Stoelker, P C

140 But for the dissemination of the allegations in Mirage's complaint, at least one or more of the defendants in Civil Action No 04-1436 in the U S District Court for the District of Delaware would have settled and paid a license fee

141 The delay and failure in licensing that has resulted from the Defendants' conspiracy to disseminate the allegations in Mirage's complaint and/or other allegations of Mirage's claim of ownership has caused St. Clair substantial damages in an amount to be proven at trial. Damages include at least St. Clair's expenses and burden of continuing litigation of cases against defendants who would have settled but for the Defendants' tortious conduct together with lost licensing revenue in the tens of millions of dollars

DEMAND FOR JURY TRIAL

142 Pursuant to Fed. R. Civ. P. 38(a), St. Clair demands a trial by jury on all issues so triable

REQUEST FOR RELIEF

WHEREFORE St. Clair requests the following relief against the Defendants:

A A declaration that St Clair owns full legal and equitable title to the patents-in-suit together with the St Clair Intellectual Property

B A declaration that Defendants are liable to St Clair for tortious interference with prospective business relations and damages in an amount greater than \$75,000 sufficient to compensate St Clair for its damages

C A declaration that Defendants are liable to St Clair for slander of title and damages in an amount greater than \$75,000 sufficient to compensate St Clair for its damages

D A declaration that Defendants are liable to St Clair for unfair competition and deceptive trade practices pursuant to 6 Del C § 2532, *et seq.*, an injunction, and damages in amount greater than \$75,000 to compensate St Clair for its damages

E A declaration that Defendants are liable to St Clair for conspiracy and damages in an amount greater than \$75,000 sufficient to compensate St Clair for its damages

F An award of prejudgment interest, costs and disbursements, and attorney fees

G Granting such other and further relief as the Court may deem just and appropriate

Date: May 6, 2005

OF COUNSEL:

Ronald J. Schutz, Esq
Jake M. Holdreith, Esq
Becky R. Thorson, Esq
Carrie M. Lambert, Esq
Kimberly G. Miller, Esq
ROBINS, KAPLAN, MILLER & CIRESI L L P
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402
(612) 349-8500



Frederick L. Cottrell, III, Esq. (#2555)
cottrell@rlf.com
Chad M. Shandler, Esq. (#3797)
shandler@rlf.com
One Rodney Square
P O Box 551
Wilmington, DE 19899
(302) 651-7700

ATTORNEYS FOR PLAINTIFF
ST. CLAIR INTELLECTUAL
PROPERTY CONSULTANTS, INC.